

117TH CONGRESS
1ST SESSION

S. _____

To prevent catastrophic wildland fires by establishing a commission to study and recommend wildland fire prevention, mitigation, suppression, management, and rehabilitation policies for the Federal Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. ROMNEY (for himself and Mr. KELLY) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prevent catastrophic wildland fires by establishing a commission to study and recommend wildland fire prevention, mitigation, suppression, management, and rehabilitation policies for the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wildland Fire Mitiga-
5 tion and Management Commission Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE COMMITTEES OF CON-
2 GRESS.—The term “appropriate committees of Con-
3 gress” means—

4 (A) the Committee on Energy and Natural
5 Resources of the Senate;

6 (B) the Committee on Agriculture, Nutri-
7 tion, and Forestry of the Senate;

8 (C) the Committee on Homeland Security
9 and Governmental Affairs of the Senate;

10 (D) the Committee on Appropriations of
11 the Senate;

12 (E) the Committee on Natural Resources
13 of the House of Representatives;

14 (F) the Committee on Agriculture of the
15 House of Representatives;

16 (G) the Committee on Homeland Security
17 of the House of Representatives;

18 (H) the Committee on Appropriations of
19 the House of Representatives; and

20 (I) the Committee on Ways and Means of
21 the House of Representatives.

22 (2) COMMISSION.—The term “Commission”
23 means the commission established under section
24 3(a).

1 (3) HIGH-RISK INDIAN TRIBAL GOVERNMENT.—

2 The term “high-risk Indian tribal government”
3 means an Indian tribal government, during not
4 fewer than 4 of the 5 years preceding the date of en-
5 actment of this Act—

6 (A) that received fire management assist-
7 ance under section 420 of the Robert T. Staf-
8 ford Disaster Relief and Emergency Assistance
9 Act (42 U.S.C. 5187); or

10 (B) land of which included an area for
11 which the President declared a major disaster
12 for fire in accordance with section 401 of that
13 Act (42 U.S.C. 5170).

14 (4) HIGH-RISK STATE.—The term “high-risk
15 State” means a State that, during not fewer than 4
16 of the 5 years preceding the date of enactment of
17 this Act—

18 (A) received fire management assistance
19 under section 420 of the Robert T. Stafford
20 Disaster Relief and Emergency Assistance Act
21 (42 U.S.C. 5187); or

22 (B) included an area for which the Presi-
23 dent declared a major disaster for fire in ac-
24 cordance with section 401 of that Act (42
25 U.S.C. 5170).

1 (5) INDIAN TRIBAL GOVERNMENT.—The term
2 “Indian tribal government” has the meaning given
3 the term in section 102 of the Robert T. Stafford
4 Disaster Relief and Emergency Assistance Act (42
5 U.S.C. 5122).

6 (6) SECRETARIES.—The term “Secretaries”
7 means—

8 (A) the Secretary of the Interior;
9 (B) the Secretary of Agriculture; and
10 (C) the Secretary of Homeland Security,
11 acting through the Administrator of the Federal
12 Emergency Management Agency.

13 (7) STATE.—The term “State” has the mean-
14 ing given the term in section 102 of the Robert T.
15 Stafford Disaster Relief and Emergency Assistance
16 Act (42 U.S.C. 5122).

17 (8) WILDLAND-URBAN INTERFACE.—The term
18 “wildland-urban interface” has the meaning given
19 the term in section 101 of the Healthy Forests Res-
20 toration Act of 2003 (16 U.S.C. 6511).

21 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

22 (a) ESTABLISHMENT.—Not later than 30 days after
23 the date of enactment of this Act, the Secretaries shall
24 jointly establish a commission to study and make rec-
25 ommendations to improve Federal policies relating to—

1 (1) the prevention, mitigation, suppression, and
2 management of wildland fires in the United States;
3 and

4 (2) the rehabilitation of land in the United
5 States devastated by wildland fires.

6 (b) MEMBERSHIP.—

7 (1) COMPOSITION.—The Commission shall be
8 composed of—

9 (A) each of the Secretaries (or designees),
10 who shall jointly serve as the co-chairpersons of
11 the Commission;

12 (B) not greater than 8 representatives of
13 Federal departments or agencies, to be ap-
14 pointed by the Secretaries, including—

15 (i) not fewer than 1 representative
16 from each of—

17 (I) the Bureau of Land Manage-
18 ment;

19 (II) the National Park Service;

20 (III) the Bureau of Indian Af-
21 fairs; and

22 (IV) the Forest Service;

23 (ii) a representative of or liaison to
24 the Mitigation Framework Leadership

1 Group of the Federal Emergency Manage-
2 ment Agency;

3 (iii) a representative to the National
4 Interagency Coordination Center, which is
5 part of the National Wildfire Coordination
6 Group;

7 (iv) a representative from 1 of the co-
8 ordinating agencies of the Recovery Sup-
9 port Function Leadership Group; and

10 (v) if the Secretaries determine it to
11 be appropriate, a representative of any
12 other Federal department or agency, such
13 as the Department of Energy, the Environ-
14 mental Protection Agency, or the Depart-
15 ment of Defense; and

16 (C) not greater than 17 non-Federal stake-
17 holders with expertise in wildland fire prepared-
18 ness, mitigation, suppression, or management,
19 who collectively have a combination of back-
20 grounds, experiences, and viewpoints and are
21 representative of rural, urban, and suburban
22 areas, to be appointed by the Secretaries, in-
23 cluding—

1 (i) not fewer than 1 State hazard
2 mitigation officer of a high-risk State (or
3 a designee);

4 (ii) with preference given to represent-
5 atives from high-risk States and high-risk
6 Indian tribal governments, not fewer than
7 1 representative from each of—

8 (I) a State department of natural
9 resources, forestry, or agriculture or a
10 similar State agency;

11 (II) a State department of energy
12 or a similar State agency;

13 (III) a county government, with
14 preference given to counties at least a
15 portion of which is in the wildland-
16 urban interface; and

17 (IV) a municipal government,
18 with preference given to municipalities
19 at least a portion of which is in the
20 wildland-urban interface;

21 (iii) with preference given to rep-
22 resentatives from high-risk States and
23 high-risk Indian tribal governments, not
24 fewer than 1 representative from each of—

25 (I) the public utility industry;

1 (II) the property development in-
2 dustry; and

3 (III) Indian tribal governments;
4 and

5 (iv) any other appropriate non-Fed-
6 eral stakeholders, which may include the
7 private sector, with preference given to
8 non-Federal stakeholders from high-risk
9 States and high-risk Indian tribal govern-
10 ments.

11 (2) STATE LIMITATION.—Each member of the
12 Commission appointed under clauses (i) and (ii) of
13 paragraph (1)(C) shall represent a different State.

14 (3) DATE.—The appointments of the members
15 of the Commission shall be made not later than 60
16 days after the date of enactment of this Act.

17 (c) PERIOD OF APPOINTMENT; VACANCIES.—

18 (1) IN GENERAL.—A member of the Commis-
19 sion shall be appointed for the life of the Commis-
20 sion.

21 (2) VACANCIES.—A vacancy in the Commis-
22 sion—

23 (A) shall not affect the powers of the Com-
24 mission; and

1 (B) shall be filled in the same manner as
2 the original appointment.

3 (d) MEETINGS.—

4 (1) INITIAL MEETING.—Not later than 30 days
5 after the date on which all members of the Commis-
6 sion have been appointed, the Commission shall hold
7 the first meeting of the Commission.

8 (2) FREQUENCY.—The Commission shall meet
9 not less frequently than once every 30 days.

10 (3) TYPE.—The Commission may hold meet-
11 ings, and a member of the Commission may partici-
12 pate in a meeting, remotely through teleconference,
13 video conference, or similar means.

14 (4) QUORUM.—A majority of the members of
15 the Commission shall constitute a quorum, but a
16 lesser number of members may hold hearings.

17 **SEC. 4. DUTIES OF COMMISSION.**

18 (a) REPORT ON RECOMMENDATIONS TO MITIGATE
19 AND MANAGE WILDLAND FIRES.—

20 (1) IN GENERAL.—Not later than 1 year after
21 the date of the first meeting of the Commission, the
22 Commission shall submit to the appropriate commit-
23 tees of Congress a report describing recommenda-
24 tions to prevent, mitigate, suppress, and manage
25 wildland fires, including—

1 (A) policy recommendations, including rec-
2 ommendations—

3 (i) to maximize the protection of
4 human life, community water supplies,
5 homes, and other essential structures,
6 which may include recommendations to ex-
7 pand the use of initial attack strategies;

8 (ii) to facilitate efficient short- and
9 long-term forest management in residential
10 and nonresidential at-risk areas;

11 (iii) to manage the wildland-urban
12 interface;

13 (iv) to manage utility corridors; and

14 (v) to rehabilitate land devastated by
15 wildland fire;

16 (B) policy recommendations described in
17 subparagraph (A) with respect to any rec-
18 ommendations for categorical exclusions from
19 the requirement to prepare an environmental
20 impact statement or analysis under the Na-
21 tional Environmental Policy Act of 1969 (42
22 U.S.C. 4321 et seq.);

23 (C) policy recommendations for modern-
24 izing and expanding the use of technology, in-
25 cluding satellite technology, to prevent, miti-

1 (aa) the conditions on the
2 use of funds received under the
3 program; and

4 (bb) the extent to which ad-
5 ditional funds are necessary for
6 the program;

7 (ii) an evaluation, including rec-
8 ommendations to improve the effectiveness
9 in mitigating wildland fires, of—

10 (I) the Building Resilient Infra-
11 structure and Communities program
12 under section 203 of the Robert T.
13 Stafford Disaster Relief and Emer-
14 gency Assistance Act (42 U.S.C.
15 5133);

16 (II) the Pre-Disaster Mitigation
17 program under that section (42
18 U.S.C. 5133);

19 (III) the Hazard Mitigation
20 Grant Program under section 404 of
21 that Act (42 U.S.C. 5170e); and

22 (IV) Hazard Mitigation Grant
23 Program post-fire assistance under
24 sections 404 and 420 of that Act (42
25 U.S.C. 5170e, 5187);

1 (iii) an assessment of the definition of
2 “small impoverished community” under
3 section 203(a) of the Robert T. Stafford
4 Disaster Relief and Emergency Assistance
5 Act (42 U.S.C. 5133(a)), specifically—

6 (I) the exclusion of the percent-
7 age of land owned by an entity other
8 than a State or unit of local govern-
9 ment; and

10 (II) any related economic impact
11 of that exclusion; and

12 (iv) recommendations for Federal
13 budgeting for wildland fires;

14 (E) any recommendations for matters
15 under subparagraph (A), (B), (C), or (D) spe-
16 cific to—

17 (i) forest type, vegetation type, or for-
18 est and vegetation type; or

19 (ii) State land, Tribal land, or private
20 land; and

21 (F)(i) a review of the national strategy de-
22 scribed in the report entitled “The National
23 Strategy: The Final Phase in the Development
24 of the National Cohesive Wildland Fire Man-
25 agement Strategy” and dated April 2014; and

1 (ii) any recommendations for changes to
2 that national strategy to improve its effective-
3 ness.

4 (2) SPECIFIC POLICY RECOMMENDATIONS.—To
5 the maximum extent practicable, the report de-
6 scribed in paragraph (1) shall include detailed short-
7 and long-term policy recommendations, including
8 any recommendations for Federal legislation.

9 (3) INTERIM REPORTS.—Before the submission
10 of the report under paragraph (1), on approval of all
11 members of the Commission, the Commission may
12 submit to the appropriate committees of Congress 1
13 or more interim reports, as the Commission deter-
14 mines to be appropriate, relating to any matters de-
15 scribed in paragraph (1).

16 (b) REPORT ON AERIAL WILDLAND FIREFIGHTING
17 EQUIPMENT STRATEGY AND INVENTORY ASSESSMENT.—

18 (1) SUBMISSION OF INVENTORY TO THE COM-
19 MISSION.—Not later than 45 days after the date on
20 which the Commission holds the first meeting of the
21 Commission, the Secretary of Defense and the heads
22 of other relevant Federal departments and agencies
23 shall submit to the Commission an inventory of sur-
24 plus cargo and passenger aircraft and excess com-
25 mon-use aircraft parts that may be used for wildland

1 firefighting purposes, excluding any aircraft or air-
2 craft parts that are—

3 (A) reasonably anticipated to be necessary
4 for military operations, readiness, or fleet man-
5 agement in the future; or

6 (B) already obligated for purposes other
7 than fighting wildland fires.

8 (2) SUBMISSION OF REPORT TO CONGRESS.—

9 Not later than 90 days after the date on which the
10 Commission receives the inventory described in para-
11 graph (1), the Commission shall submit to the ap-
12 propriate committees of Congress a report outlining
13 a strategy to meet aerial firefighting equipment
14 needs through 2030 in the most cost-effective man-
15 ner, including—

16 (A) an assessment of the expected number
17 of aircraft and aircraft parts needed to fight
18 wildland fires through 2030;

19 (B) an assessment of existing authorities
20 of the Secretary of Defense and the heads of
21 other relevant Federal departments and agen-
22 cies to provide or sell surplus aircraft or air-
23 craft parts to Federal, State, or local authori-
24 ties for wildland firefighting use, including—

1 (i) a description of the current use of
2 each existing authority; and

3 (ii) a description of any additional au-
4 thorities that are needed for the Secretary
5 of Defense and the heads of other relevant
6 Federal departments and agencies to pro-
7 vide or sell surplus aircraft or aircraft
8 parts to Federal, State, or local authorities
9 for wildland firefighting use; and

10 (C) recommendations to ensure the avail-
11 ability of aircraft and aircraft parts that the
12 Commission expects will be necessary to fight
13 wildland fires through 2030 in the most cost-ef-
14 fective manner.

15 (3) CONSIDERATIONS FOR ACCESSING AIRCRAFT
16 AND AIRCRAFT PARTS.—In developing the strategy
17 in the report required under paragraph (2) and the
18 recommendations under paragraph (2)(C), the Com-
19 mission shall consider all private and public sector
20 options for accessing necessary aircraft and aircraft
21 parts, including procurement, contracting, retro-
22 fitting, and public-private partnerships.

23 (4) UNCLASSIFIED REPORT.—The inventory
24 and report submitted under paragraphs (1) and (2),
25 respectively—

1 (A) shall be unclassified; but

2 (B) may include a classified annex.

3 (c) MAJORITY REQUIREMENT.—Not less than $\frac{2}{3}$ of
4 the members of the Commission shall approve the rec-
5 ommendations contained in each report submitted under
6 subsection (a) or (b)(2).

7 **SEC. 5. POWERS OF COMMISSION.**

8 (a) HEARINGS.—The Commission may hold such
9 hearings, sit and act at such times and places, take such
10 testimony, and receive such evidence as the Commission
11 considers advisable to carry out this Act.

12 (b) INFORMATION FROM FEDERAL AGENCIES.—

13 (1) IN GENERAL.—The Commission may secure
14 directly from a Federal department or agency such
15 information as the Commission considers necessary
16 to carry out this Act.

17 (2) FURNISHING INFORMATION.—On request of
18 the Chairpersons of the Commission, the head of the
19 department or agency shall furnish the information
20 to the Commission.

21 (c) POSTAL SERVICES.—The Commission may use
22 the United States mails in the same manner and under
23 the same conditions as other departments and agencies of
24 the Federal Government.

1 (d) GIFTS.—The Commission may accept, use, and
2 dispose of such gifts or donations of services or property
3 as the Commission considers necessary to carry out this
4 Act.

5 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

6 (a) NO COMPENSATION.—A member of the Commis-
7 sion shall serve without compensation.

8 (b) TRAVEL EXPENSES.—A member of the Commis-
9 sion shall be allowed travel expenses, including per diem
10 in lieu of subsistence, at rates authorized for employees
11 of agencies under subchapter I of chapter 57 of title 5,
12 United States Code, while away from their homes or reg-
13 ular places of business in the performance of services for
14 the Commission.

15 (c) STAFF.—

16 (1) IN GENERAL.—The Chairpersons of the
17 Commission may, without regard to the civil service
18 laws (including regulations), appoint and terminate
19 an executive director and such other additional per-
20 sonnel as may be necessary to enable the Commis-
21 sion to perform its duties, except that the employ-
22 ment of an executive director shall be subject to con-
23 firmation by the Commission.

24 (2) COMPENSATION.—The Chairpersons of the
25 Commission may fix the compensation of the execu-

1 tive director and other personnel without regard to
2 chapter 51 and subchapter III of chapter 53 of title
3 5, United States Code, relating to classification of
4 positions and General Schedule pay rates, except
5 that the rate of pay for the executive director and
6 other personnel may not exceed the rate payable for
7 level V of the Executive Schedule under section 5316
8 of that title.

9 (d) **DETAIL OF GOVERNMENT EMPLOYEES.**—A Fed-
10 eral Government employee may be detailed to the Commis-
11 sion without reimbursement, and such detail shall be with-
12 out interruption or loss of civil service status or privilege.

13 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**
14 **TENT SERVICES.**—The Chairpersons of the Commission
15 may procure temporary and intermittent services under
16 section 3109(b) of title 5, United States Code, at rates
17 for individuals that do not exceed the daily equivalent of
18 the annual rate of basic pay prescribed for level V of the
19 Executive Schedule under section 5316 of that title.

20 **SEC. 7. TERMINATION OF COMMISSION.**

21 The Commission shall terminate on the date that is
22 180 days after the date on which the Commission has sub-
23 mitted the reports under subsections (a) and (b) of section
24 4.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated to carry out

3 this Act \$1,000,000.